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Book Review. Padover, S. K., The Complete Jefferson

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- (a) *Replacement Pages* containing rewritten basic text.
- (b) *Supplemental Pages*. Cumulative material following each section referring to the text which it supplements.
- (c) *Taxes today*. Discussion of important legislative, judicial and administrative development.

The arrangement of the volume is such as to enable the practitioner to secure a comprehensive review of the Federal problems to be faced with respect to particular transactions, whether Income, Estate or Gift Tax.

The book is divided into eight major sections. In front of each section are charts clearly outlining the contents following it. These sections are listed below:

Tax Patterns—Income and Excess Profits
Entities
Corporations and Corporate Distributions
Securities and Indebtedness
Real Estate
Gift, Trusts and Estates
Insurance and Annuities
Procedure

The charts are especially interesting to review when referring to a single question and the tie-in of the indexing of the material saves considerable time. Preceding each set of charts is a helpful synopsis. The summaries in the charts are then made the headings for the body of the text itself, which is written in non-technical language containing frequent references to the Code, Regulations, and cases.

Lewis J. Laventhol.†

THE COMPLETE JEFFERSON. Assembled and arranged by S. K. Padover. Duell, Sloan & Pearce, Inc., N. Y., 1943. Pp. xxix 1322. Price: \$5.00.

Of this edition of Jefferson, it is merely necessary to note that, far from being "Complete," it represents, one guesses, about a tenth of Jefferson's written work, omitting letters that are among his most significant contributions; that the arrangement seems to have been contrived rather hastily; that the reader is left uninformed regarding the number of, and differences in, the various editions of Jefferson's publications; and that the printing and paper can only be condoned as war-time exigencies. But I assume that the Editor of this Review wishes me to "review" the subject-matter of this volume—an impossible assignment, of course, but which, nonetheless, I am glad to venture upon under the mild obsession that some improvement in legal education and in prevalent conceptions and standards of "lawyers' work" will result if teachers and lawyers can be stirred by the vision of their immortal brethren.

As Dr. Padover states: "In these pages the multiminded Sage of Monticello speaks on liberty, discourses on philosophy, discusses religion, writes on agriculture, proposes educational systems, analyzes linguistics, suggests labor-saving devices, sketches inventions, comments on scientific classifications, tell how to construct a pedometer, explains how to survey

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a plat, introduces a new system of coinage, and—pens a poem to his love. The Jefferson who emerges from these pages is nearly incredible." These words are plain statements of fact; hence the first technique of any experienced reviewer must be to disregard the major portion of such a volume and confine comment to selected samples.

It is Jefferson, the lawyer and the lawyer-statesman who, no doubt, is most interesting to the readers of this Review, but that limitation, judged by the standards of the Bar of his day, is not nearly so restrictive as we might imagine, conditioned as we are by the severe, legal specialization of the past half century. Even a very brief mention of some of his legal pursuits indicates the considerable range of his professional interests. His *Bill for Proportioning Crimes and Punishments* (1779) reveals, as did Livingston's major contribution forty-odd years later, that the Criminal Law, far from being scorned and shunted, was a major concern of the leaders of the Bar. Jefferson's draft of his Bill is profusely annotated, references including not only the classical English treatises from Bracton to Blackstone but also Montesquieu, More and Beccaria. While this Bill contained much that would now be considered archaic, it is evident, also, that Jefferson was among the first Americans to carry the influence of the rising humanitarian reforms to these shores—a matter equally important for our criminal law and our Bill of Rights. Perhaps Jefferson's modernity is nowhere better shown than in the annotations to this Bill that deal with the drafting of legislation. ("In its style, I have aimed at accuracy, brevity, and simplicity . . . the modern statutory language, with all its tautologies, redundancies, and circumlocutions, would have spread itself over many pages, and have been unintelligible to those whom it most concerns.") I am not aware that our students of draftsmanship study Jefferson, but, assuredly, this volume provides many models worthy of close analysis. For Jefferson was one of the great legislators of modern times; his *Proposed Constitution for Virginia* (1776), and his *Draft of a Constitution for Virginia* (1783) are among numerous like documents, included in this volume, that will reward careful examination. So, too, the international lawyer will find Jefferson's *Opinions* on appointments to foreign service, on neutrality, on treaties, and on foreign debts of more than historical importance. And, of course, his papers illuminate numerous problems of constitutional law that are currently agitated.

Jefferson wrote extensively on educational problems, and, among others, introduced a *Bill for the More General Diffusion of Knowledge* (1779) and for *Establishing a Public Library* (1779). His opposition to sending American students abroad reveals an acute observation of the laxity of European institutions of higher learning at that time. His observations on the value of Greek and Latin, on library classification, and on the education of women are thoughtful and not infrequently provocative. His well-known, self-chosen epitaph indicates the debt to him of the University of Virginia and of university education generally in this country as an essential adjunct to democratic government.

Of particular interest at this time are Jefferson's views on legal education. For, however greatly legal educators differ in their specific programs, if they can arrive at common ground concerning the major needs of post-war lawyers, there is hope for the Bar's creative participation in the solution of countless problems, many of which lie beyond the boundaries of the established specialized fields. At least in inducing a more hospitable attitude towards experiments designed to broaden the training of lawyers, Jefferson can be a powerful influence even if we disagree with his partic-

ular proposals. An early letter (1767) published shortly after he began the practice of law, counselled on both prelegal and legal education. In the former, he recommended foreign languages, mathematics and philosophy. The law course, in addition to the then usual legal subjects, was to include the study of science, religion, ethics, philosophy, politics, history, literature, rhetoric and oratory. Contrary to the present predilection, Jefferson believed that "the carrying on several [different sorts of] studies at a time is attended with advantage." He supplied a bibliography of the above various fields, including a number of volumes of Select Cases, and, if law students imagine that their professors have invented case-briefing, they should read Jefferson's injunction: "In reading the Reporters, enter in a common-place book every case of value, condensed into the narrowest compass possible, which will admit of presenting distinctly the principles of the case. This operation is doubly useful, inasmuch as it obliges the student to seek out the pith of the case, and habituates him to a condensation of thought, and to an acquisition of the most valuable of all talents, that of never using two words where one will do. It fixes the case, too, more indelibly in the mind." Writing on this same subject a good many years later (1821) when he needed his granddaughter to copy his letter, Jefferson, after supplying a brief legal bibliography, stressed Reeves' History and the reading of select, leading cases. He noted, also, that though a lawyer was not expected to be "an adept" in, yet he should have a "decent" knowledge of admiralty, ecclesiastical and international law. All of the above professional reading, he thought, would require six hours a day; "there would still be six or eight hours for reading history, politics, ethics, physics, oratory, poetry, criticism, etc. as necessary as law to form an accomplished lawyer."

Only a lawyer, thus trained, could have made Jefferson's great contribution to our Bill of Rights, indeed, to the cause of civil liberty everywhere, e. g., his influence on the drafting of the *Déclaration des Droits de L'Homme*. His valiant efforts in behalf of freedom of religion in a day when the right was by no means established, is well known, but the original papers as they came from Jefferson's pen will repay careful reading. Even after he was bitterly attacked in the newspapers and was re-elected President, he nonetheless affirmed his philosophy of liberty, especially of the Press, in simple language that is far from irrelevant to the most basic problems of this century—when lawyers, of all citizens, must somehow reconcile the traditional liberties with the newer economic claims, styled in the self-same language of natural right.

There is no easy road to the required proficiency, and even a thumbing of these pages discloses a thoughtful philosopher and social scientist working in and through the instrumentality of law to achieve a profound ideal of a good American society. It presents a challenge to those whose duty it is to know what makes great lawyers, and to provide the necessary opportunities, as best they can. Even more, it is a revelation of the vital importance of the great lawyer who serves the Republic as statesman. For the great leaders of a democracy are perennial founts of inspiration and encouragement. In paying them our homage, we but renew our own vitality and courage to meet the challenge, not so much of the great crises, but rather of the inertia of each day's routine assignment. To keep the vision of one's potentialities alive, to stir the embers of self-criticism, and to rededicate oneself to the individual and social ideal—these values have today a special significance in the context of all the deeper spiritual and intellectual meanings of a western culture whose ultimate principles

are being tested on the field of battle. The Great Dead of this nation whom we honor all-too-infrequently, and of whom we know much too little, are those who, whatever their station, had the wit and sensitivity to appreciate the nature of such basic issues, and the determination to wage the good fight. Such a man was Lawyer Jefferson.

Jerome Hall.†

THE INTERNATIONAL LAW OF THE SEA. By A. Pearce Higgins and C. John Colombos. London: Longmans, 1943. Pp. xvi, 5-647. Price: \$17.00.

The present volume constitutes a strange mixture of the old and the new, the solid and the uncertain, the British and the international. In its more than six hundred pages and its twenty-odd chapters it tries to deal with the international law of the sea in all its aspects, in peace and in war. And it employs the classical methods of treatise-writing, of Anglo-American case law, and of more modern political science all in the same good cause.

Thus in Part I we have a chapter devoted to the question of the sources and development of maritime law which inevitably contains a certain amount of material on the general science of international law and on modern conditions all over the world. But we also have a very great lot of talk about the Admiralty, jurisdiction of the Admiralty courts, the Royal Navy, and so on. And as between the two the treatment of the latter element seems much more substantial, confident and assertive than the former.

The remaining chapters in Part I and the comparable chapters (XI-XXI) in Part II reveal the same feature: the universe is made up of Britain and whatever else. On the other hand it is in these chapters, dealing with the details of substantive law, that Professor Higgins' well-recognized technical mastery is most evident—even though here also the distinction between international law and British law seems always in danger of being ignored. In a section dealing with "British contributions to the freedom of the seas" there is displayed either an incredible lack of perceptiveness or a brutal refusal to recognize non-British feeling,—one is inclined to believe it is the former.

In the second part of the book and its concluding chapter we encounter the discrepancy again. The "law" of naval warfare (blockade and contraband, visit and search and capture, etc.) is set out in a way quite out of keeping with the existing uncertainty concerning the content of that law. This is done largely by dwelling on historical aspects of the matter and refraining from forcing the issue: just where do matters stand today? Then finally, in Chapter XXII, comes a discussion of the future of naval warfare, of international organization, legislation, and police action for suppression of international violence, which is quite in harmony with current thought. It is, however, as far removed from the rest of the treatment as Washington, Moscow, and Geneva are from Ipswich, Yarmouth, and the Declaration of London.

Every student of maritime problems and even of maritime law should have a copy of this volume at hand (except for the absurd price). He will have a mine of material, largely historical, and the observations of a partisan lawyer who yet has much sympathy for international community

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